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- ROMAN LAW AND MOHAMMEDAN JURISPRUDENCE. III. *Theodore P. Ion*. 6 Mich. L. Rev. 371.
- SUBTERRANEAN PERCOLATING WATER, SOME OBSERVATIONS ON THE RIGHTS OF LANDOWNERS IN. *Sumner Kenner*. Digesting the cases. 66 Cent. L. J. 194.
- SURRENDER CLAUSE, EFFECT OF, IN OIL LEASE. *Berkeley Minor, Jr.* Discussing the various theories. 14 The Bar 26.
- "TURNTABLE CASES," Should the Doctrine of the, Holding Railroad Corporations Liable for Injuries to Trespassing Children, be Extended so as to Make Land-Owners Liable for Injuries Caused to Trespassing Children by Unguarded Ditches, Ponds, etc. *Sumner Kenner*. 66 Cent. L. J. 137.

## II. BOOK REVIEWS.

IN 21 HARV. L. REV. 228 (January, 1908) we printed a review of the second edition of Abbott's Practice and Forms, by Carlos C. Alden, published by Baker, Voorhis and Co., New York. In our review of this work criticism was made of the omission of ten of the most recently decided New York cases. Our attention has been called by the editor of the second edition to the fact that of these ten cases four were not omitted, but had been actually cited a total of eight times. In this matter we acknowledge our error, though we feel that it is possible that two of the cases were not cited in every section where they should have appeared. Of the remaining six cases the editor assures us that in his opinion five of them involve matters not within the scope of the work. On this point we do not feel convinced that our review was wrong, but we are glad to recognize the existence of a firm dissent from our criticism. For the injustice in our admitted error we feel the deepest regret.

**THE LAW AND CUSTOM OF THE CONSTITUTION.** By Sir William R. Anson. In three volumes. Vol. II. The Crown. Part I. Third Edition. Oxford: At the Clarendon Press. 1907. pp. xxvii, 283. 8vo.

Since the last edition of this work was published, Sir William Anson has been active in public life. Entering Parliament as a member for Oxford University in 1899, he was soon made Secretary to the Board of Education, and had the principal charge of carrying through the Education Act of 1902. No doubt these duties have delayed the preparation of another edition of his book, but students of English government will welcome even this instalment of a new edition, for the work is far the best that exists in its own field. That field cannot be easily defined, but the author has indicated it well in the title of his book, "Law and Custom of the Constitution." In most governments it is easy to distinguish the legal structure from the functions of the organs of the state; but in England this is not so, because the exercise of authority is limited, and even created, by conventions of the constitution which have no legal basis. In the English government, as in a rotary storm, structure and functions cannot be kept distinct. So far, however, as it is possible to separate them, Sir William Anson's book deals with the former, that is, with the law, and with those customs which may be said to form a permanent part of the British constitution, including such things as the responsibility of the ministers, and even the procedure for making appropriations in the House of Commons. It is worth while to keep an authoritative work in such a field well up to date.

In the subjects treated by the present volume — covering as it does the Crown with its councils, the ministers, and the departments of government — there has not been a great deal of change in the dozen years since the last edition came out. Perhaps the most striking change has been that in the Board of Education itself. But the new edition does much more than merely note the results of recent legislation. In one or two respects the book has been largely reconstructed. The author has abandoned his division of the public offices into executive and regulative; that is, into those which deal with the

necessities and luxuries of government—a division which was hardly logical, difficult for students to comprehend, and certainly not in accord with the unsystematic construction of British public offices. Instead, the author has arranged the different departments much more nearly in their historic order. Arrangement may be a small matter, but in this case it would seem to add distinctly to the clearness and value of the work.

The only considerable addition in the new volume is a much more extensive treatment of the historic evolution of the Cabinet in England. This is extremely interesting, and brings out many things in a short compass. The author points out, for example, how towards the end of the eighteenth century, after the idea of responsibility had taken root, there was still a tendency towards an outer and inner ring, a body of actual administrators who composed the effective Cabinet, while ex-ministers and others formed part of a larger Cabinet which bore towards the inner ring something of the relation that the Privy Council had borne to the Cabinet itself a couple of generations earlier.

At the end of his description of the Cabinet, the author discusses its relation with the House of Commons; and here he dwells upon the fact, which is undoubtedly true, that the last extensions of the franchise in 1867 and 1885 have made as wide a breach with the period that preceded them as the first Reform Act did between that period and the times of the unreformed Parliament. He points out "that from 1832 to 1867 a defeat in the House of Commons on what the Cabinet may have chosen to consider a vital issue was the ordinary mode of terminating the existence of a Ministry," but that in later years the fall of a Cabinet has commonly been brought about by a popular election. He points out that during the years between 1832 and 1867, or rather for this purpose 1886, the House of Commons possessed a larger measure of political power, and its members greater independence and freedom of judgment, than at any other period. Before that time the composition and conduct of the House was largely under the influence of the Crown and its servants. Since that time it has been under the control of the Cabinet and of party. Sir William Anson attributes the change rather to the introduction of single-member constituencies than to the extension of the franchise. But whatever one may think of the precise weight to be attributed to a particular cause, his statement of the result is unquestionably correct. "The consequence," he says, "of these various features of our political life at the present time is to make the House of Commons dependent on the Cabinet rather than the Cabinet on the Commons. The threat of a dissolution suggests to the supporters of a Ministry the certainty of expense and the possibility of defeat, and this possibility may assume a more formidable aspect if by-elections have resulted unfavorably to the Government. . . . A member may have ceased to be in sympathy with the leaders of his party, but he may also feel that small as will be his chances of re-election in any event, they would disappear altogether if he broke the bonds of party allegiance. In truth the Redistribution of 1885 has done much to destroy the independence of the members of the House of Commons. The power and influence which it has lost has gone partly to the Cabinet, partly to the constituencies, or rather in many cases, to the organizations by which the constituencies are worked."

A. L. L.

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**NEGLECTANCE IN LAW.** By Thomas Beven. In two volumes. Third Edition. London: Stevens and Haynes. Philadelphia: Cromarty Law Book Company. 1908. pp. cciv, 1-726; xi, 727-1505. 8vo.

Mr. Beven's treatise on Negligence made its first appearance in a single volume, nineteen years ago. In 1895 a second edition was issued in two volumes, which is now superseded by the bulky tomes before us. That a new edition of this work was needed to keep it abreast of judicial decisions, will not be questioned by any one familiar with the output of the courts upon this most fruitful topic of litigation.

But the author has not contented himself with introducing into this edition the "1456 new cases on negligence" which have appeared in the English Law